

REMARKS

Claims 1-4 and 10-16 have been rejected under 35 USC §103(a) as being unpatentable over Fogarty et al. '452 in view of Laird '661 and Merry et al. '235. This rejection is respectfully traversed.

The independent claims 1 and 4 have been amended to define the invention with greater particularity, and now variously recited "an element disposed about the body near one of the distal and proximal ends thereof for selectively expanding laterally outwardly about the body", and "laterally outwardly expanding the portion of the access port inserted within the incision to form fluid-sealing engagement with tissue about the incision".

In addition, the independent kit claims 10-12 variously recite "an element disposed about the body near the distal end thereof for selectively expanding laterally outwardly from the body", and "a hollow cylinder of resilient material.... including an outwardly extending flange integrally formed on the proximal end of the cylinder to overlay the proximal end of the body, the flange including an aperture therethrough in position to substantially align with the central bore of the body upon attachment thereto".

Also, the dependent claims 2, 3 are further restricted by the recitations of “the element includes a balloon of substantially toroidal-shape attached to an outer surface of the body near the distal end thereof”, and “the fluid seal includes a generally toroidally-shaped member disposed in fluid-sealing engagement with the body near the proximal end thereof”. And, the dependent kit claims 13-16 are further limited by various recitations of “a substantially cylindrical section extending substantially concentrically with the hollow cylinder toward the distal end thereof to overlay the proximal end of the body and terminate with an inwardly intruding rim integrally formed with the cylinder section and the flange and the hollow cylinder, said rim being dimensioned and positioned to engage the recessed groove about the periphery of the body in fluid-tight sealing engagement therein”, and “a protruding ring integrally formed about the cylinder near the distal end thereof for deforming within the central bore of the body to form a fluid-tight seal therewith”, and “an intruding ring integrally formed on said intruding rim for deforming within the recessed groove to form a fluid-tight seal therein”, and “the hollow cylinder of the auxiliary sealing member being dimensioned to form a fluid-tight seal within the aperture of the sealing member, and the protruding flange on the distal end of the auxiliary sealing member being disposed to engage the distal end of the sealing

member for retaining the auxiliary sealing member within the aperture of the sealing member”.

These aspects of the claimed invention facilitate forming a fluid-tight seal within a cutaneous incision, and additionally promote versatility of range of sliding seal apertures in a number of sealing members, and in auxiliary sealing members that fit within sealing members.

These aspects of the claimed invention are not disclosed or even suggested by the references considered either alone or in the combination proposed by the examiner.

Specifically, Fogarty et al. ‘452 is deficient of disclosure of a laterally outwardly expandable member from the body of an access port. Rather, this reference is understood to rely upon a balloon that extends longitudinally or axially in line with an inner bore (e.g., for an endoscope), and offers no hint or suggestion of the structure or procedure or kit as claimed by applicants.

Nor does Laird ‘661 disclose any laterally outwardly expanding member. At best, this reference discloses apparatus that extends longitudinally or inwardly on applied fluid pressure, but is deficient of a laterally outwardly expanding member in any way resembling applicants’ claimed invention.

And, Merry et al. '235 is understood to include separate sliding seals spaced along a central bore to inhibit contact as flexed during insertion or withdrawal of an endoscopic instrument within the central bore. There is no disclosure here of any laterally outwardly expanding member in the manner as specifically claimed by applicants. Thus, merely combining these three cited references as proposed by the examiner fails to establish even a *prima facie* basis from which a proper determination of obviousness can be made. It is therefore respectfully submitted that claims 1-4 and 10-16 as amended are now patentably distinguishable over the cited references.

The allowability of claims 5-9 is noted with appreciation.

Favorable action regarding all pending claims is solicited.

Respectfully submitted,
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ATTACHMENT: CLAIMS REVISIONS